IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R.S.A. No. 578 of 2004
Date of Decision : 30.8.2007

Anoop Singh **...Appellant**

Versus

Smt. Pushpa Gupta and others **...Respondents**

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr. A.S.Virk, Advocate for the appellant

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RAJESH BINDAL, J.

This is plaintiff's second appeal against the concurrent findings of fact by both the Courts below whereby suit filed by him for mandatory injunction with consequential relief of permanent injunction against the respondents was dismissed.

The claim made by the appellant-plaintiff was that his father was allotted evacuee property No.176/1 and to approach the same a passage was also given, which was being used by the plaintiff. He submits that now the respondents have started using that passage by opening their doors and windows though they have approach from other side to their properties. During the course of the evidence, appellant-plaintiff could not prove that he is owner of the disputed property in any manner whatsoever rather the same was left as passage to his house, on which now a metalled road has been laid. Once the appellant-plaintiff has failed to prove his ownership of the land/area in dispute, both the courts below have rightly negatived his claim for grant of mandatory injunction with consequential relief of permanent injunction. The passage left out as an approach to the house of the appellant-plaintiff cannot be said to be of his exclusive ownership, so as to deprive any one else to use the same in future.

Accordingly, I do not find any merit in the present appeal and the same is dismissed in limine.

August 30, 2007 **(Rajesh Bindal)**
Pka **Judge**